IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6691 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

STATE BANK OF SAURASHTRA

Versus

ASHWINKUMAR C TRIVEDI

Appearance:

Mr.Dhaval Nanavati for MR KS NANAVATI for Petitioner

NOTICE SERVED for Respondent

CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 02/11/2001

ORAL JUDGEMENT

The respondent workman is served with the notice on 5.5.2001. However, he has not chosen to remain either personally present or through an advocate.

2. The present petition is filed by State Bank of

Saurashtra against the respondent who was an employee of the Bank serving as a Peon-cum-Chowkidar at Jamvali Branch during January 1979 and March 1981. The case of the petitioner is that the respondent was served with two charge sheets for the following incidents:

"Charge Sheet No.1: Charge No.1:
That the respondent in collusion with the then Branch Manager, Mr.A.B. Shah, demanded and accepted illegal gratification ranging from Rs.75/-, to Rs.250/-, from 21 borrowers who had obtained loans under DIR/SBF Schemes of the Bank."

"Charge Sheet No.1: Charge No.1:
That the respondent had demanded loan of Rs.800/- on September 29, 1979 in the name of one of his relatives, Shri Laxmishankar Bhanushankar Trivedi, which was utilised by him, for his personal use.

Charge No.2: That he had signed loan documents/ vouchers in the name of the said Laxmishankar by forging signatures and has thus cheated the petitioner Bank.'

3. With reference to first charge the Bank appointed Inquiry Officer who after conducting departmental inquiry submitted his report on June 26, 1986 holding the charge levelled against the respondent duly proved.

4. The second charge sheet containing two charges was issued to the respondent on 13.10.1984 by the petitioner Bank after appointing an Inquiry Officer, who conducted inquiry and submitted his report on 26th June 1985, holding the respondent fully guilty for the first charge and partially guilty for charge no.2. The case of the petitioner Bank is that the management considered the Inquiry Officer's report and came to a provisional conclusion that the respondent was not a fit person to be kept in service and therefore, second show cause notice dated 29.6.1985 was served on the respondent calling upon him to show cause as to why he should not be dismissed from service. The respondent workman submitted his reply to the said show cause notice as the same was not satisfactory, the petitioner Bank dismissed the respondent workman from the service of the Bank by a common order dated 2.8.1985 on the basis of the findings of these two inquiries.

5. In accordance with the rules of the Bank the

respondent workman preferred an appeal in respect of both the inquiries. As there was no substance in the appeal preferred by the respondent, the appellate authority by order dated 23.12.1985 rejected the same and upheld the order of dismissal.

6. The respondent workman then approached the Industrial forum. A reference under sec.10(2) for adjudication of the dispute as to whether the dismissal order passed against the respondent was legal and proper and if it be so, what relief the respondent would be entitled to was made. The respondent workman filed his statement of claim at exhibit 2, contending inter alia that the charges levelled against him are vague and that no proper opportunity was afforded to him in the inquiry and the inquiry started very late, he was prejudiced as he was not able to rebut the charge with respect to receipt of loan in the name of Laxmishankar because Laxmishankar died, and he was not in a position to produce him before the Inquiry Officer.

7. The petitioner Bank filed its written statement at exhibit 8 denying the allegations made in the statement of claim and justifying the order of dismissal. By Purshis, exhibit 17, the documents produced before the Inquiry Officer were taken on record in the reference. It is required to be noted that by another Purshis, exhibit 11, the parties agreed to the legality and propriety of the inquiry held against the respondent. It is also submitted by the petitioner Bank that no oral evidence was led by either of the parties to the said reference. The learned Judge of the Tribunal after considering the documentary as well as oral evidence recorded before the Inquiry Officer came to the conclusion that Charge, Exhibit 11/1 which was in respect of the respondent's collusion with the Branch Manager for demanding and accepting illegal gratification from 21 borrowers ranging between Rs.75/- to Rs.250/-, was proved against the respondent. It is further required to be noted that in spite of the finding being recorded, the Tribunal ordered reinstatement of the respondent workman which is under challenge in this petition. I have perused the grounds on which the judgement and award of the Industrial Tribunal, Ahmedabad in Reference (ITC) No.29 of 1987 is challenged. I have also perused the judgement and award of the Industrial Tribunal. The judgement and award cannot stand inasmuch as the Tribunal having recorded a finding that the respondent workman was guilty of the charges levelled against him under exhibit 11/1, no reinstatement could have been ordered. The Tribunal has not awarded any back wages, nor it awarded

costs. Possibly because of the nature of the charges levelled against the respondent workman and in view of the fact that the charges levelled against the respondent workman under exhibit 11/1 was proved against him.

8. In the result this petition is allowed. The judgement and award of the Industrial Tribunal, Ahmedabad in Reference (ITC) No. 29 of 1987 is hereby quashed and set aside. Rule is made absolute with no order as to costs.

(Ravi R. Tripathi, J.)

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